



PLANNING COMMISSION AGENDA
SYNOPSIS

Wednesday, September 22, 2004

6:00 p.m. Regular Meeting
Council Chambers, Room 205, City Hall

801 North First Street
San Jose, California

Bob Levy, Chair
Bob Dhillon, Vice-Chair

Xavier Campos Jay James
Dang T. Pham
Christopher Platten James Zito

Stephen M. Haase, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 277-4576 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Bob Levy** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **September 22, 2004**. Please remember to turn off your cell phones and pagers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

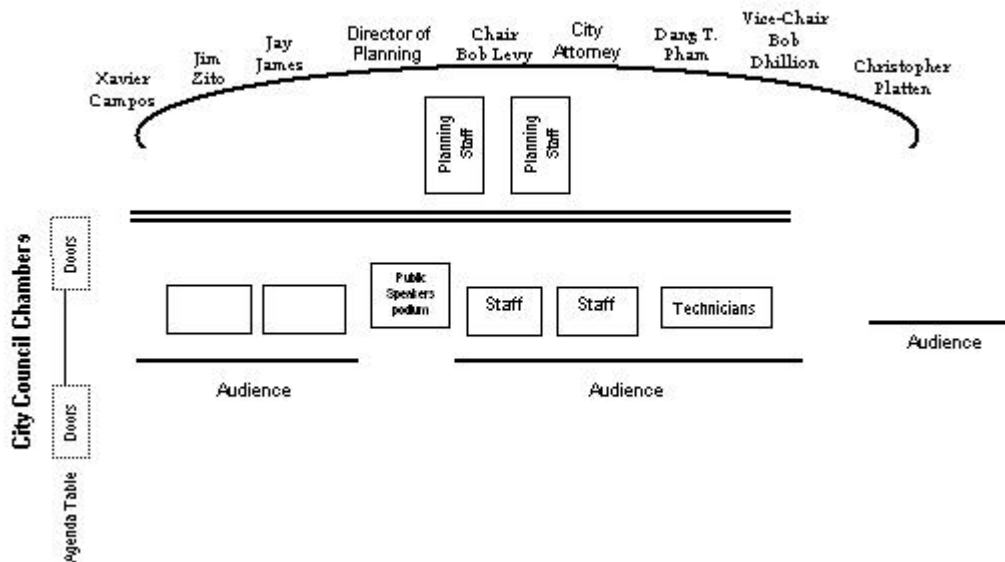
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda changes, please contact Linda LaCount (linda.lacount@sanjoseca.gov).

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm>. Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 277-4576. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.

- a. PDC04-060. PLANNED DEVELOPMENT REZONING from R-1-5 and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District to allow 26 single-family attached residential units on a 1.6 gross acre site, located on the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 (568 Hillsdale Avenue) (Thotus George P Trustee & Et Al, Owner). Council District 10. SNI: None. CEQA: Mitigated Negative Declaration.

Recommendation

Planning staff recommends that the Planning Commission recommend to the City Council approval of the proposed Planned Development Rezoning to allow 26 single-family attached residential units as recommended by Staff.

RECOMMEND APPROVAL WITH CONDITIONS (7-0). PULLED FROM CONSENT BY COMMISSIONER JAMES WITH QUESTION ON THE PROPOSED UNIT CONSTRUCTION TYPE-BUILT ON-SITE, OR JUST ASSEMBLED ON-SITE. APPLICANT RESPONDED THAT THE PROJECT IS PROPOSED TO BE CONSTRUCTED ON-SITE.

COMMISSIONER LEVY EXPRESSED CONCERN REGARDING MINIMAL RIPARIAN SET BACK OF ONLY 30 FEET. STAFF RESPONDED THAT USE OF TWO-ACRE RULE ALLOWED DEVELOPMENT OF A BETTER PROJECT ON A CHALLENGING

SITE, AND THAT SETBACK WAS APPROPRIATE SINCE EARTHEN CHANEL HAS NO EXISTING HABITAT.

COMMISSIONER ZITO ASKED FOR CLARIFICATION ON WHETHER THE COMMISSION COULD PROPOSE FEWER UNITS IN THE PROJECT, WHICH THE ATTORNEY INDICATED WAS WITHIN THE COMMISSION'S PURVIEW.

COMMISSIONER CAMPOS QUERIED THE USE OF TWO-ACRE RULE AT THIS LOCATION AND INDICATED THAT THE QUALITY OF DESIGN DID NOT APPEAR TO BE EXEMPLARY OR ON A PAR WITH PAST PROJECTS DEVELOPED UNDER THE TWO-ACRE RULE.

COMMISSIONER ZITO COMMENTED THAT AN INCREASED RIPARIAN SETBACK TO APPROXIMATELY 50 FEET WOULD BE MORE APPROPRIATE.

COMMISSION MOTION INCLUDED RECOMMENDATION TO INCREASE RIPARIAN SETBACK GENERALLY TO AN AVERAGE OF 50 FEET, PERHAPS ELIMINATING UNITS 6, 10, 14, 18, 22 AND TO PROVIDE LANDSCAPING TO ENHANCE THE RIPARIAN HABITAT.

- b. CP04-086. CONDITIONAL USE PERMIT request to allow for a 20,000 square-foot commercial tenant space, in excess of the 15,000 square-foot maximum individual occupant square footage requirements of the CP Commercial Pedestrian Zoning District on a 10.33 gross-acre site in the CP Pedestrian Commercial Zoning District located on the east side of South King Road, approximately 550 feet southerly of Story Road (San Jose Redevelopment Agency, Owner). Council District 5. SNI: K.O.N.A., East Valley/680 Communities. CEQA: Reuse of Negative Declaration.

Recommendation

Planning staff recommends that the Planning Commission approve the commercial tenant space as recommended by Staff.

APPROVED (7-0).

- c. CP04-018. CONDITIONAL USE PERMIT to allow a parking establishment and site improvements on a 0.11 gross-acre site in the CG General Commercial Zoning District, located on the southeast corner of The Alameda and South Keeble Avenue (1022 The Alameda) (Watergarden Corporation, Owner). Council District 6. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit to allow a parking establishment and site improvements as recommended by Staff.

APPROVED (7-0).

- d. CP04-059. CONDITIONAL USE PERMIT to allow installation of a new slim-line design wireless communication monopole with a 500 square-foot associated equipment shelter on a 1.23 gross-acre site in the LI Light Industrial Zoning District, located at/on West side of King Road approximately 500 feet southeasterly of Las Plumas Avenue (Pacific Gas And Electric, Owner). Council District 3. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit for a wireless communications monopole as recommended by Staff.

DEFERRED THE PROJECT TO 10-13-04.

- e. CP04-077. CONDITIONAL USE PERMIT to collocate six wireless communications antennas within a recently approved 60-foot monopole on a 4.95 acre site in the R-1-8 Single-Family Residence Zoning District, located at/on between Berryessa Creek and Westminster Court (3150 CROPLEY AV) (San Jose Water Works, Owner; Metro Pcs California/Florida Mr Kersten Rutherford, Developer). Council District 4. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit to collocate 6 wireless communication antennas as recommended by Staff.

APPROVED (7-0).

PULLED FROM THE CONSENT BY THE PUBLIC WITH CONCERN REGARDING NOTICE NOT RECEIVED BY ALL PROXIMATE OWNERS, TOWER HEIGHT OF 60 FEET, AND CONCERN ABOUT MAINTENANCE ACCESS OVER NARROW EASEMENT. THE APPLICANT CLARIFIED THAT ANTENNA WILL BE UNMANNED AND ONLY ONE TECHNICIAN PER MONTH WILL COME TO THE SITE. STAFF CLARIFIED APPLICANT WILL PLANT ADDITIONAL TREES TO HELP SCREEN POLE FROM RESIDENCES, AND WILL PAINT MONOPOLE TO MATCH PAINT EXISTING WATER TANK ON SITE.

- f. CP04-033. WIRELESS - CONDITIONAL USE PERMIT to allow two (2) roof-mounted wireless communications antennas on an existing school gymnasium building and an associated 180 square foot ancillary equipment shelter on a 36.0 gross acre site in the A-Agricultural Zoning District, located on east side of Johnson Avenue approximately 200 feet northerly of Walbrook Drive (Fremont Union High School District, Owner). Council District 1. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit for wireless communication antennas as recommended by Staff.

APPROVED (7-0).

- g. CP04-071. CONDITIONAL USE PERMIT to allow a 60-foot tall wireless communication antenna and a approximately 233 square foot equipment enclosure on a 21.7 gross acre site in the R-1-8 Single-Family Residence Zoning District, located at 955 Piedmont Road (Piedmont Middle School) (Berryessa Union S.D., Owner; Cingular Wireless, Developer). Council District 4. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit for a wireless communication antenna as recommended by Staff.

APPROVED (7-0).

- h. CP04-075. CONDITIONAL USE PERMIT to allow the collocation of twelve, wireless communication panel antennas within a single monopole (pending File No. CP04-071) and the construction of an approximately 290 square foot equipment enclosure on a 20.8 gross acre site in the R-1-8 Single-Family Residence Zoning District, located at/on 945 Piedmont Road (Berryessa Union School Dist, Owner; Nextel Of California, Developer). Council District 4. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit to allow the collocation of twelve, wireless communication panel antennas within a single monopole as recommended by Staff.

APPROVED (7-0).

- i. CP04-066. CONDITIONAL USE PERMIT to allow social service uses within an approximately 9,000 square-foot industrial building on a 0.59 gross acre site in the HI Heavy Industrial Zoning District, located at/on southwest side of Remuda Lane, approximately 400 feet easterly Zanker Road (1615 REMUDA LN) (Pinkerton Clarence Trustee & Et Al, Owner). Council District 4. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit to allow social service uses as recommended by Staff.

APPROVED (7-0).

- j. CP04-064. CONDITIONAL USE PERMIT to allow the installation of 3 wireless communications antennas at the top of an existing 125 foot PG&E transmission tower and associated 150 square-foot equipment enclosure on a 1.32 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of Sierra Road and Woodranch Road (Pacific Gas And Electric Co, Owner; Metro PCS Inc., Developer). Council District 4. SNI: None. CEQA: Exempt.

Recommendation

Planning staff recommends that the Planning Commission approve the Conditional Use Permit for wireless communication antennas as recommended by Staff

APPROVED (7-0).

The following items are considered individually.

4. PUBLIC HEARINGS

- a. AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE to allow exemptions from Single-Family House Permit requirements for building height for construction of and additions to houses located in flood zones. CEQA: Exempt, PP04-08-227.

Recommendation

Planning staff recommends that the Planning Commission recommend to the City Council approval amending Chapter 20.100 of Title 20 of the San Jose Municipal Code to allow exemptions from single-family house permit requirements for building height for construction of and additions to houses located in flood zones.

APPROVED (7-0).

COMMISSIONER ZITO SUGGESTED THAT ANY REPORTS ON APPLICATIONS FOR PROPOSED HOUSES WHICH WOULD MAKE USE OF THE ORDINANCE CHANGE INDICATE THE ESTIMATED ADDITIONAL UNIT HEIGHT DUE TO FLOOD PROTECTION MEASURE.

- b. The projects being considered are located on the south side of State Street, approximately 300 feet easterly of Pacific Avenue, in the R-M Multiple Residence Zoning District (Next Step Homes, LLC, Owner/Developer). Council District 4. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 9-8-04.
 1. PDC03-104. PLANNED DEVELOPMENT REZONING from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 6 single-family detached residences on a 0.41 gross acre site. Deferred from 8-25-04.
 2. PD04-035. PLANNED DEVELOPMENT PERMIT to construct 6 single-family detached residences on a 0.41 gross acre site.
 3. PT04-045. PLANNED TENTATIVE MAP PERMIT to subdivide 1 parcel into 6 lots for single-family detached residential uses on a 0.41 gross acre site.

Recommendation

Planning staff recommends that the Planning Commission defer these projects to 10-13-04.

DEFERRED PROJECTS TO 10-13-04.

- c. PDA 84-046-01. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE A PLANNED DEVELOPMENT PERMIT AMENDMENT to allow the removal of one Aleppo Pine tree 76 inches in circumference on an existing attached residential site, in the R-1-8 (PD) Planned Development Zoning District, located on the southerly side of Primavera Court, approximately 250 feet easterly of Primavera Drive (Via Primavera Homeowner's Association, Owners). Council District 2. SNI: None. CEQA: Exempt. Deferred from 9-8-04.

Recommendation

Planning staff recommends that the Planning Commission overturn the Director's decision and deny the permit as recommended by Staff.

DEFERRED PROJECT TO 10-13-04.

- d. CP03-010. CONDITIONAL USE PERMIT to allow an entertainment/drinking establishment its operation after midnight on a 2.16 gross acre site in the CN-Commercial Neighborhood Zoning District located at the northeast corner Monterey Road and Rancho Drive (3844 Monterey Road) (Alex Hawari, Owner; Fiesta Club/Miguel Sandoval, Developer). Council District 7. SNI: None. CEQA: Addendum to ND.

Recommendation

Planning staff recommends that the Planning Commission deny the Conditional Use Permit to allow an entertainment/drinking establishment to operate after midnight as recommended by Staff.

CONTINUED TO 10-27-04 TO ALLOW STAFF TO WORK WITH APPLICANT ON APPROPRIATE CONDITIONS TO ALLOW POSSIBLE APPROVAL OF CUP.

REPRESENTATIVE FROM THE NEIGHBORING BUSINESS (PIZZA RESTAURANT) ACROSS RANCHO DRIVE FROM THE PROJECT INDICATED SUNDAY EVENING PARKING OVERFLOW FROM NIGHTCLUB AFFECTS HIS PARKING AVAILABILITY. APPLICANT NOTED NEW PROPOSED SECURITY PLAN TO PROVIDE SECURITY IN PARKING LOT AND IN PROXIMATE SHOPPING CENTER, AND TO PROTECT RESIDENTIAL USES. APPLICANT NOTED PRIOR ACTIVITY AT THE NIGHTCLUB SITE HAD INCLUDED SOME DESIGNATED AREAS FOR PATRONS UNDER 21 YEARS OF AGE, WHICH IS NOT CURRENTLY BEING PROPOSED.

COMMISSIONER JAMES ASKED FOR CLARIFICATION ON CRIME STATISTICS AND MEASURES TO MITIGATE NOISE, ESPECIALLY FROM THE "BACK DOOR". THE APPLICANT RESPONDED THAT MANAGEMENT WOULD AGREE TO KEEP INTERIOR REAR DOOR CLOSED AND TO BUILD A SOUND WALL TO PROVIDE ADDITIONAL NOISE BUFFERING. APPLICANT NOTED THAT SECURITY PLAN WOULD HELP ENSURE PARKING FOR PATRONS IS APPROPRIATELY USED, AND COMMENTED THAT VALET PARKING OR DEVELOPMENT OF AN ADDITIONAL PARKING AREA WERE BEING CONSIDERED.

COMMISSIONER PLATTEN ASKED FOR CLARIFICATION WHY CURRENT

PROJECT IS SIGNIFICANTLY DIFFERENT THAN PROBLEM SITUATION THAT HAS REQUIRED CODE ENFORCEMENT AND POLICE ACTIVITY FOR MANY YEARS. APPLICANT'S REPRESENTATIVE INDICATED THAT CURRENT CENTER OWNERSHIP GROUP IS SUPPORTIVE OF PROJECT, NO UNDER AGE PATRONS WILL BE PERMITTED, AND THAT LITTER CONTROL AND SECURITY ARE BEING PROPOSED WITH THIS PROPOSAL.

COMMISSIONER ZITO INQUIRED WHETHER LATE NIGHT HOURS ONLY FRIDAY TO SUNDAY WOULD BE ACCEPTABLE, AND WOULD A ONE-YEAR COMPLIANCE REVIEW BE ACCEPTABLE. THE APPLICANT INDICATED THOSE WERE REASONABLE CONDITIONS.

COMMISSIONER LEVY NOTED REAL PARKING CONSTRAINTS WITH BUSIEST NIGHTS FOR PIZZA RESTAURANT AND NIGHTCLUB BEING FRIDAY TO SUNDAY. COMMISSIONER CAMPOS NOTED THAT EMPLOYEES COULD BE DIRECTED TO PARK IN SPACES CLOSEST TO RESIDENCES TO MINIMIZE POTENTIAL FOR NOISE IMPACTS.

COMMISSIONER ZITO ASKED FOR CLARIFICATION ON WHETHER CUP STAYS WITH THE LAND, OR IS SPECIFIC TO THIS OWNER, AND ASKED FOR STAFF'S TOP CONCERNS. STAFF RESPONDED CUP WOULD STAY ON SITE AND NOISE FROM PATRONS LEAVING AND FROM AMPLIFIED MUSIC IN NIGHTCLUB, AND NOTED NOISE SOUND WALL HEIGHT WAS DESIGNED PER CONSULTANT REPORT.

COMMISSIONER PLATTEN MOVED THAT A DEFERRAL OR A MONTH WOULD ALLOW APPLICANT AND STAFF TIME TO NEGOTIATE APPROPRIATE CONDITIONS. THE CITY ATTORNEY COMMENTED THAT THE COMMISSION SHOULD PROVIDE DIRECTION TO STAFF WITH MORE GUIDANCE ON HOW STAFF SHOULD BEST ADDRESS ISSUES OF NOISE IMPACTS ON RESIDENCES, THE PARKING CONFLICTS THAT HAVE BEEN NOTED, AND THE COUNCIL POLICY RELATIVE TO SEPARATION BETWEEN NIGHTCLUB USES AND RESIDENTIAL.

COMMISSIONER JAMES STATED INFORMATION ON SHARED PARKING AND NOISE MITIGATION IN STAFF REPORT PROVIDE POTENTIAL FOR APPROVAL FINDINGS.

COMMISSIONER ZITO INDICATED POTENTIAL CONDITIONS COULD INCLUDE SOUND WALL, FEWER LATE NIGHT HOURS ON THURSDAYS OR SUNDAYS, SHARED PARKING, SIGNAGE FOR PARKING, DESIGNATED EMPLOYEE

PARKING, A SECURITY PLAN AND SOUND- PROOF DOOR TO ENTERTAINMENT AREA, AND A COMPLIANCE REVIEW.

STAFF REQUESTED CLARIFICATION ON THE PLANNING COMMISSION DIRECTION REGARDING POTENTIAL FOR A DRINKING ESTABLISHMENT ON THE SITE. APPLICANT CLARIFIED THAT BAR WOULD OPERATE ONLY WITH THE NIGHTCLUB.

MOTION TO CONTINUE. COMMISSIONER DHILLON EXPRESSED CONCERN REGARDING LONG HISTORY OF PROBLEMS ON SITE AND NOTED SUPPORT FROM COMMUNITY LEADER MADE A DIFFERENCE IN HIS WILLINGNESS TO SUPPORT.

- j. PD04-012. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO DENY A PLANNED DEVELOPMENT PERMIT to allow extension of operation hours between 12:00 midnight and 2:00 am, entertainment uses, and a drinking establishment for an existing restaurant in the A(PD) Planned Development Zoning District, located on the northeast corner of South Bascom Avenue and Elliott Street (Babe's Bar and Grill, 398 S. Bascom Avenue) (Salomon-Murphy Rena Trustee, Owner). Council District 6. SNI: Burbank/Del Monte. CEQA: Incomplete.

Recommendation

Planning staff recommends that the Planning Commission uphold the Director's decision to deny a Planned Development permit as recommended by Staff.

UPHOLD DIRECTOR'S DECISION TO DENY (6-1-0; PHAM OPPOSED). APPLICANT CLARIFIED THAT REQUEST WOULD BE REVISED TO NOT REQUEST ENTERTAINMENT BEYOND MIDNIGHT, AND CLARIFIED PARKING AVAILABILITY. CHAIR OF LOCAL NEIGHBORHOOD ADVISORY COMMITTEE (NAC) SPEAKING AS A HOMEOWNER, NOTED THAT WHEN PROJECT WAS DISCUSSED AT NAC MEETING, THERE WAS NO VOCALIZED OPPOSITION, AND FURTHER NOTED THAT THIS SITE IS NEAR COUNTY POCKETS AND IS ONLY AREA BUSINESS WITH CITY RESTRICTIONS. OTHER AREA RESIDENTS SUPPORTED FAMILY-ORIENTED BUSINESS AND NOTED NOISE ALONG BASCOM AVENUE WAS MORE OF AN IMPACT THAN USE. ADJACENT HOMEOWNER NOTED NOISE IMPACTS ALREADY BAD AND WOULD BE WORSE WITH APPROVAL OF AFTER MIDNIGHT USE.

COMMISSIONER JAMES ASKED FOR CLARIFICATION REGARDING WHETHER ALL NOISE IS FROM THIS ESTABLISHMENT, OR OTHERS ALONG BASCOM, AND REGARDING TRASH AND GARBAGE ISSUES ON SITE.

ANOTHER AREA RESIDENT COMMENTED THAT THERE IS A LOUD MOTORCYCLE TRAFFIC AND AUTO HEADLIGHTS IMPACT FROM THE USE. APPLICANT CLARIFIED THAT AREA LATE NIGHT TRAFFIC OFTEN RELATED TO OTHER NIGHTCLUBS IN VICINITY. APPLICANT CLARIFIED BUSINESS MAY CLOSE IF ADDITIONAL LATE NIGHT HOURS CAN'T BE APPROVED, AND INDICATED HE WOULD PROVIDE SECURITY.

COMMISSIONER ZITO ASKED WHETHER PROPERTY OWNER WOULD CONSIDER PROPERTY IMPROVEMENTS TO SITE.

STAFF CLARIFIED THAT PROJECT IS BEFORE COMMISSION TO ASSESS IF THERE IS ANY POSSIBILITY OF A POSITIVE RECOMMENDATION PRIOR TO APPLICANT SPENDING ADDITIONAL MONEY ON NOISE REPORT. STAFF CLARIFIED THAT BUSINESS DOES NOT HAVE LEGAL BAR ON SITE, AND CAN ONLY SERVE ALCOHOL WITH MEALS.

THE CITY ATTORNEY NOTED THAT ONLY ACTIONS AVAILABLE TO COMMISSION WOULD BE DENIAL OR DEFERRAL UNTIL APPROPRIATE ENVIRONMENTAL CLEARANCE COULD BE PROVIDED.

DEPUTY DIRECTOR EXPLAINED ELEMENTS THAT WOULD NEED TO BE ADDRESSED ON THE SITE, AND THAT ADDITIONAL PARKING ANALYSIS RELATIVE TO SIZE AND SEATING IN RESTAURANT WOULD BE NECESSARY PRIOR TO ENVIRONMENTAL CLEARANCE. STAFF FURTHER CLARIFIED THAT THE PROPOSAL APPEARED TO HAVE VERY SIGNIFICANT OBSTACLES GIVEN THE APPLICABLE COUNCIL POLICIES. STAFF PROVIDED FURTHER CLARIFICATION THAT EXISTING RESTAURANT USE IS TOO INTENSE FOR PARKING ON-SITE DUE TO LACK OF APPROPRIATE ON-SITE PROPERTY MANAGEMENT.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
 1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

NONE

6. **REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

NONE

7. **GOOD AND WELFARE**

a. Report from City Council

NONE

b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Curfew and Noise Monitoring Committee (Dhillon and James).

COMMISSIONER JAMES REPORTED THAT AIRPORT COMMISSION GAVE AWARD FOR PLANNING COMMISSION PARTICIPATION.

- Coyote Valley Specific Plan (Platten)

COMMISSIONER PLATTEN NOTED APPROVAL BY CITY COUNCIL OF COYOTE DEVELOPMENT FRAMEWORK ON 9-26-04.

c. Review of synopsis.

NO COMMENT

8. **ADJOURNMENT**

2004 PLANNING COMMISSION MEETING SCHEDULE

September 23	8:30 a.m./4:30 p.m.	Annual Retreat	Museum of Art, 110 S. Market
October 13	6:00 p.m.	Regular Meeting	Council Chambers
October 27	6:00 p.m.	Regular Meeting	Council Chambers
November 1	6:00 p.m.	General Plan Hearing	Council Chambers
November 10	6:00 p.m.	Regular Meeting	Council Chambers
November 17	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
December 8	6:00 p.m.	Regular Meeting	Council Chambers